



Treasury Inspector General for Tax Administration

THE OFFICE OF DISCLOSURE CAN IMPROVE COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REQUIREMENTS

Issued on August 31, 2007

Highlights

Highlights of Report Number: 2007-10-133 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Freedom of Information Act (FOIA), the Privacy Act, and Internal Revenue Code (I.R.C.) Section (§) 6103 govern the release of Federal Government records to the public. The Internal Revenue Service (IRS) has made significant improvement in the timeliness of responses to FOIA and Privacy Act requests; however, in 4.6 percent of FOIA and Privacy Act requests, and in 14.5 percent of I.R.C. § 6103 cases sampled, the IRS improperly withheld information from taxpayers. TIGTA estimates taxpayers were improperly denied information for 344 requests made under the FOIA and Privacy Act and for 815 requests made under I.R.C. § 6103 during Fiscal Year 2006. This is a potential violation of taxpayer rights because tax account information was available and was not provided to taxpayers.

WHY TIGTA DID THE AUDIT

TIGTA is required to conduct periodic audits to determine if the IRS properly denied taxpayers' written requests for tax account information and to include the results of these audits in one of its Semiannual Reports to Congress. This is our eighth review of denials of FOIA, Privacy Act, and I.R.C. § 6103 requests.

The overall objective of this review was to determine whether the IRS improperly withheld information requested by taxpayers in writing, based on FOIA exemption (b)(3), in conjunction with I.R.C. § 6103, and/or FOIA exemption (b)(7), or by replying the requested records were not available.

WHAT TIGTA FOUND

The IRS improperly withheld information from requestors in 4 (4.6 percent) of the 88 FOIA and Privacy Act cases sampled. This represents a small improvement from the results in our Fiscal Year 2006 audit report (6.1 percent). Also, the IRS improperly withheld information from requestors in 12 (14.5 percent) of the 83 I.R.C. § 6103 cases. This represents a significant increase over the

2.3 percent error rate for I.R.C. § 6103 cases we reported last year. As a result, TIGTA estimates the Disclosure offices did not provide available tax records to 344 requests made under the FOIA and Privacy Act and to 815 requests made through I.R.C. § 6103. The errors appear to have occurred mainly because of inadequate research or simple oversight by the Disclosure office caseworkers.

Since Fiscal Year 2000, the IRS has made significant improvement in responding timely to FOIA and Privacy Act requests. Responses to only 2 (2.3 percent) of the 88 cases in our sample were untimely. In our opinion, the delays in these 2 cases were not significant because the responses were untimely by just 1 day or 2 days. In the previous TIGTA audits, the percentages of untimely responses ranged from 7.3 percent to 43.5 percent. The increase in responsiveness may, in part, be due to a significant decrease in the numbers of FOIA and Privacy Act cases received during Fiscal Year 2006 compared to Fiscal Year 2005.

WHAT TIGTA RECOMMENDED

TIGTA made no specific recommendations during this audit because recommendations made in our previous audit reports are still valid for the issues reported. However, IRS management reviewed the report prior to issuance and agreed with the facts, findings, and outcome measures presented.

READ THE FULL REPORT

To view the report, including the scope and methodology, go to:

<http://www.treas.gov/tigta/auditreports/2007reports/200710133fr.pdf>

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